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# REPORT OF THE INTERGOVERNMENTAL GROUP TO MONITOR THE SUPPLY AND SHIPPING OF OIL AND PETROLEUM PRODUCTS TO SOUTH AFRICA 1/

Addendum

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LETTER OF TRANSMITTAL

12 June 1990

I have the honour, in accordance with paragraph 2 of General Assembly resolution 44/27 H of 22 November 1989, to transmit herewith the interim report of the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa, which was adopted unanimously on 12 June 1990. On behalf of the Intergovernmental Group, I would like to request that the report be issued as a document of the General Assembly and of the Security Council.

Accept, Excellency, the assurances of my highest consideration.

(Signed) Anthony B. NYAKYI
Chairman of the
Intergovernmental Group to Monitor
the Supply and Shipping of Oil and
Petroleum Products to South Africa

His Excellency
Mr. Javier Pérez de Cuéllar
Secretary-General
United Nations

## I. INTRODUCTION

1. On 26 October 1989, the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa submitted its third report 2/ to the General Assembly. In section V of that report, the Intergovernmental Group described the purpose and procedures of the exercise of monitoring calls of ships with petroleum-bearing capabilities at South African ports and stated its intention to report to the Assembly at its forty-fourth session within six months on the status of its inquiry into the matter. 3/ In paragraph 2 of its resolution 44/27 H of 22 November 1989, the Assembly took note of that intention.

2. As was noted in paragraph 43 of its earlier report, the Intergovernmental Group attached utmost importance to responses of Governments to letters requesting information on such port calls. Such a request had been sent out on 28 July 1989. The Group had the intention of making it possible for Governments to research the cases involved and to report back to it before any evaluation of the cases took place. The complex nature of the issues involved, and the fact that information had to be sought ultimately from operational branches of national Governments and other sectors, would have made it difficult for Governments to reply in time for that information to be included in the Intergovernmental Group's initial report to the Assembly at its forty-fourth session.

3. The Intergovernmental Group adopted the present report on 12 June 1990.

## II. DESCRIPTIVE RESUME OF PORT CALL CASES REPORTED IN 1989

4. The task of monitoring the supply and shipping of oil and petroleum products to South Africa is a difficult one, if only because South Africa lies at the crossroads of maritime oil trade and its major harbours are at a convenient midway point between important termini in oil and chemical shipping. Indeed, South African harbours are two to three days' sea journey from the nearest harbours of equivalent size and with equivalent facilities for bunkering, restocking, repairs etc. Under those circumstances it has been customary for many ships representing different registries and ownership to call at South African ports for operational purposes, that is, without loading or discharging any cargoes. In addition, ships with petroleum-bearing capabilities may call at South African ports for the purpose of discharging non-petroleum cargoes as well. The Intergovernmental Group, before proceeding to consider the possibility of violations of the oil embargo against South Africa in those port calls, wished to provide concerned Governments with the opportunity to submit information that would allow those cases to be excluded from further consideration.

5. The procedures for selecting the 474 cases originally considered were described in paragraphs 40 and 41 of the initial report of the Intergovernmental Group. 2/

6. South Africa's estimated imports of oil and petroleum products are 12 to 14 million tons per annum. The import dependence on oil and petroleum products is estimated at 70 per cent, with its oil-from-coal process able to supply nearly 30 per cent of its overall needs. On the basis of previous estimates, around 80 per cent of South Africa's imported oil is delivered in crude form on tankers or combination carriers and around 20 per cent in the form of petroleum products. The present report covers most of the possible deliveries of petroleum products and that portion of possible deliveries of crude oil made on combination carriers.

7. In the overwhelming majority of the cases, information was requested from at least two Governments, namely, the flag State and the porting State. In cases of more complex voyages, for example "chain voyages", one or more additional Governments were believed to be in a position to submit relevant information. In its evaluation of responses, the Intergovernmental Group laid stress on flexibility and the importance of taking a global view of all available information. While it would prefer supporting documentation, the Intergovernmental Group found explanations submitted by Governments to be in a number of cases sufficient to remove those cases from further consideration without requesting relevant documentation. The Intergovernmental Group in all cases sought indications that cases had been researched individually and it did not consider as sufficient broad generic responses that did not address themselves to the particulars of the cases queried. Altogether 59 cases were removed from further consideration.

8. The remaining 415 as yet unclarified cases are broken down by type of ship and type of flag State, as shown in table 1. The figures show clearly that the bulk of the port calls involved ships belonging to what the Intergovernmental Group has traditionally referred to as oil-shipping or registry States. One such State had been requested to provide information on 112 of the still unclarified cases, another on 88 and a third on 85. In combination carrier cases, 94 of the 116 voyages, representing 80 per cent of the total tonnage in that category, occurred on ships flying the flags of registry States, which are generally defined as States whose main, or sole, link to the vessel is its registration.



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9. Table 2 refers to tankers that primarily carry petroleum products and to combination carriers that are basically capable of carrying crude oil. In 186 of the 275 tanker cases ships sailed to South Africa from oil-consuming States. The tonnage of those 186 voyages represents 64 per cent of all tanker tonnage in that category. In 81 of the 275 tanker voyages, representing 33 per cent of that total tonnage, the ships sailed to South Africa from oil-handling States. A different case profile emerges regarding combination carriers. In 62 of the 116 combination carrier voyages, representing 58 per cent of the total tonnage in that category, the ships sailed to South Africa from oil-handling States. In 36 cases, representing 30 per cent of that total tonnage, the ships sailed to South Africa from oil-consuming States. In 18 of the 116 combination carrier cases, representing 12 per cent of the total tonnage, the ships sailed to South Africa from oil-exporting States. In all those cases, the term "sailed from" refers to the State of the last known porting before the port call in South Africa.

10. A total of 58 of the 415 unclarified voyages were accounted for by product tankers belonging to a single transnational conglomerate. Those voyages represented a total of just over 2 million deadweight tons petroleum product capacity or just under 32 per cent of the total petroleum product tonnage encompassed in the survey. Furthermore, 33 of those 58 voyages originated in a country where a subsidiary of the same conglomerate operates onshore oil transloading facilities. An additional 16 voyages originated in another country where the conglomerate's management is domiciled. The tonnage involved in those 49 voyages represents about 85 per cent of the 2 million deadweight tons capacity cited. The two countries from which those 49 voyages commenced both ban the export of oil and petroleum products to South Africa. None of the voyages undertaken by tankers belonging to that conglomerate could be removed from further consideration on the basis of information submitted by Governments. The Intergovernmental Group is aware of the possibility that port calls in South Africa are being made on long intercontinental voyages for operational reasons at what is a convenient mid-point in the journey. However, it has observed that such port calls mainly occur on voyages going in one direction.

11. The petroleum product tankers mentioned above highlight a trend noted in the voyage statistics for many of the remaining port calls. The tankers involved are recently built, technically advanced and expensive ships that, unlike crude-oil carrying tankers in the 100,000 to 250,000 deadweight ton range, are not in surplus on world tanker markets. Their removal from the petroleum product trade with South Africa would create a supply gap that could not easily be replaced by the authorities of Pretoria.

12. The statistics from the survey further show that in the years 1986 to 1988 some 16 million tons of incoming deadweight oil-carriage capacity were made available to South Africa through the porting of combination carriers whose main purpose in calling at South African ports was to load cargoes of mineral ore. In calendar year 1988 those portings accounted for close to 12 million tons deadweight capacity. If rationally and exhaustively utilized for inbound oil carriage, such voyages could practically cover all crude oil import needs. The Intergovernmental Group does not believe that the potential maximum is being utilized. However, the very magnitudes involved make it imperative to address the question of how the traffic of combination carriers can be monitored in order to eliminate this loophole.

13. Of the approximately 22 million tons of petroleum-bearing capacity encompassed by the survey of 415 as yet unclarified voyages, over 9 million tons of capacity, or about 42 per cent of the total, proceeded to South Africa from ports in countries where the export of oil and petroleum products to South Africa has reportedly been banned. The Intergovernmental Group is in no position to suggest that the statutes of those countries are being violated on a systematic basis. However, on the basis of responses and/or the lack of responses, it is unable to discern in most instances what enforcement mechanisms are in place that would allow the responsible authorities in those jurisdictions to determine if violations of the export bans ever occur.

14. Notwithstanding, the Intergovernmental Group also notes that many voyages commence in countries where the export of petroleum products and petro-chemicals has not been banned. The failure to include petroleum products in export bans thus remains a loophole in the oil embargo against South Africa.

15. The large number of port calls warrants consideration as possible violations of the oil embargo against South Africa. Because of the number of voyages, about 200 to 250 per year, as well as their capacity to supply oil and petroleum products to South Africa, the Intergovernmental Group would conclude that such portings constitute a potential means of circumvention of the oil embargo. That constitutes a loophole that cannot be adequately monitored with the means currently available to the Intergovernmental Group. It therefore considers that such port calls by ships with petroleum-bearing capacity should be discouraged.

## III. CORRESPONDENCE WITH GOVERNMENTS

16. The Intergovernmental Group decided to request information on those voyages which culminated in the 474 port calls under review. On 28 July 1989, the Acting Chairman sent letters to 57 permanent missions or observer missions to the United Nations requesting information on one or more specific cases. Reminders were sent to 49 permanent missions on 20 November 1989 and additional reminders were sent to 46 permanent missions on 5 February 1990.

17. Of the 57 States originally contacted in this exercise, 10 were contacted primarily in their capacity as flag States, that is, States where the ships were registered. The remainder were contacted primarily in their capacity as porting States, that is, States where the ships had ported prior to their calling in South Africa. Some cases involved a series of portings prior to calling in South Africa, "chain voyages", and in those cases the Intergovernmental Group decided to contact several States since it could not always know at what points in the chain of portings cargoes had been taken on or discharged.

18. The request for information in no way implies that States contacted with reference to a specific case were involved in any violation of the oil embargo against South Africa. The consideration of those port calls is deemed necessary to shed light on the circumstances in which oil and petroleum products are delivered to South Africa in violation of the oil embargo.

19. As at 12 June 1990, the Intergovernmental Group is still awaiting replies from the Permanent Missions of Argentina, the Bahamas, Belgium, Bulgaria, Canada, Congo, Côte d'Ivoire, Cyprus, Djibouti, France, Japan, Kenya, Liberia, Malta, Morocco, the Netherlands, Nigeria, Panama, Qatar, Senegal, Singapore, Somalia, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

20. Also as at 12 June, the Intergovernmental Group had received replies from six countries that did not provide information specific to the cases on which clarification had been requested. Those Governments are Brazil, Ethiopia, Malaysia, Norway, Saudi Arabia and Vanuatu.

21. Also as at 12 June, the Intergovernmental Group had received replies from other Governments leading to the clarification of a number of cases. In other cases the Intergovernmental Group felt that further details and/or documentation pertaining to the cases were needed in order to remove them from further consideration. The Intergovernmental Group is currently communicating with the Permanent Missions of those States, which are Australia, the Federal Republic of Germany, Greece, Iran (Islamic Republic of), Italy, the Libyan Arab Jamahiriya, Madagascar, Mauritius, Portugal, Romania, Spain, the Sudan, Turkey and Venezuela.

22. The Intergovernmental Group received replies from the Permanent Missions of 12 further States, which submitted information that, together with some of the information submitted by the Permament Missions of the States cited in paragraph 21, led to the removal of 59 cases from further consideration.

23. In 9 cases it was confirmed that crude oil or petroleum products had been loaded on the ship at the commencement of the voyage. Information clarifying the cargo in those cases was received from six Governments. The Intergovernmental

Group has since written to the Permanent Missions of the five Member States in whose ports those petroleum cargoes had been loaded with a request for discharge documentation attesting to the ultimate disposition of the cargo. In two further cases the Government concerned confirmed that the ships had been loaded with crude oil or petroleum products but submitted discharge certificates showing that the cargoes had been off-loaded outside of South Africa.

24. Responses from Governments led to the removal of 59 cases from further consideration, including the cases cited in paragraph 23, either because the ship was in ballast on its voyage to South Africa (41 cases), or was carrying a non-petroleum cargo (7 cases), or called at a South African port for purely operational purposes (4 cases), or because the ships in question were not certified to carry oil or petroleum products by their registration States (7 cases). Information that contributed to the clarification of those cases was received from 12 Governments.

25. In 47 other cases responses from Governments indicated that the ships had ported before proceeding to South Africa and clarified that no oil or petroleum products had been on board those same ships at that point in their voyage. Those portings were thus removed from any further consideration but the cases themselves remain under consideration. Information that contributed to the clarification of those portings was received from 14 Governments.

## IV. CONCLUSIONS AND RECOMMENDATIONS

26. The exercise of considering port calls has revealed those practical and legal impediments to an effective oil embargo against South Africa which obtain where States have not included petroleum products in their embargo legislation but have confined such bans to crude oil. Additionally, the absence of any mechanism or procedure for reporting and monitoring portings and ships' movements prevents not only the effective enforcement of bans by national Governments on the export of oil and petroleum products to South Africa, but makes it more difficult for States to co-operate in an efficient and meaningful manner with the Intergovernmental Group where it seeks to monitor the oil embargo against South Africa.

27. The Intergovernmental Group is of the opinion that all States have an important contribution to make in the clarification of cases. Because ships are bound by the laws of the registration States at all times, the Intergovernmental Group regards the information supplied by registration States, generally termed "flag States", as the most significant element in the process of clarifying the purpose and circumstances of voyages. With the co-operation of those registration States which responded, the concise and pertinent information supplied made it possible to remove a considerable number of cases from further consideration. Regrettably, only a few oil-shipping States have co-operated fully with the Intergovernmental Group to date.

28. The Intergovernmental Group concludes that further consideration should be given to all cases in which no response was obtained from any of the concerned Governments or in which the response was insufficient. In particular, greater co-operation from oil-shipping States with information pertinent to the individual cases would have provided better clarification of many of the voyages under consideration. In 415 of the original 474 cases, the Intergovernmental Group has no option but to maintain the cases under further review.

29. The Intergovernmental Group sincerely hopes that co-operation will still be forthcoming from those Governments yet to respond fully to its requests for information.

30. In order to strengthen the oil embargo against South Africa the Intergovernmental Group recommends that:

(a) Governments enact legislation or comparable measures to prohibit the supply and shipping of oil and petroleum products to South Africa;

(b) Governments co-operate fully with the Intergovernmental Group in its consideration of cases in which ships with petroleum-bearing capacity call at South African ports, including, where necessary, the removal by Governments of legal impediments to such full co-operation;

(c) Governments discourage ships capable of carrying oil or petroleum products in their national registries or owned or managed by companies or individuals within their jurisdiction from engaging in activities that give rise to violations of the oil embargo against South Africa;

(d) Intergovernmental and non-governmental organizations extend their utmost co-operation to the Intergovernmental Group, as well as to national Governments, in the co-ordinated enforcement of the oil embargo against South Africa.

Table 1. Type of national registration for remaining non-clarified port call cases, number of voyages and tonnage for each type of ship

| Type of country of registration | Tankers | | Combination carriers | | Gas carriers | | Total voyages |
|---|---|---|---|---|---|---|---|
| | Voyages | Total tonnage | Voyages | Total tonnage | Voyages | Total tonnage | |
| Registry | 150 | 3 290 628 | 94 | 12 718 059 | 9 | 49 189 | 253 |
| Traditional maritime | 95 | 2 523 567 | 11 | 1 608 922 | 14 | 138 860 | 120 |
| Others | 30 | 511 388 | 11 | 1 420 476 | 1 | 7 070 | 42 |
| Total | 275 | 6 325 583 | 116 | 15 747 457 | 24 | 195 119 | 415 |

Table 2. Type of country of prior porting for remaining non-clarified port call cases, number of voyages and tonnage for each type of ship

| Type of country | Tankers | | Combination carriers | | Gas carriers | | Total voyages |
|---|---|---|---|---|---|---|---|
| | Voyages | Total tonnage | Voyages | Total tonnage | Voyages | Total tonnage | |
| Oil exporters | 8 | 194 777 | 18 | 1 869 154 | 1 | 6 082 | 27 |
| Oil handlers | 81 | 2 103 307 | 62 | 9 135 967 | 10 | 74 332 | 153 |
| Oil consumers | 186 | 4 027 499 | 36 | 4 742 336 | 13 | 114 705 | 235 |
| Total | 275 | 6 325 583 | 116 | 15 747 457 | 24 | 195 119 | 415 |

Notes

1/ The present document was also submitted to the Security Council under the symbol S/20926/Add.1.

2/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 44 (A/44/44).

3/ Ibid., para. 44.